



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,457	09/24/2001	Franz-Josef Becker	512100-2020	9510
20999	7590	12/16/2003	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			RINEHART, KENNETH	
			ART UNIT	PAPER NUMBER

3749

DATE MAILED: 12/16/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/937,457

Applicant(s)

BECKER ET AL.

Examiner

Kenneth B Rinehart

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 55-86 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 55-57, 59-61, 66-71, 75, 80 and 82-86 is/are rejected.
- 7) ☒ Claim(s) 58, 62-65, 72-74, 76-79 and 81 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the converting a desiccant polymeric matrix comprising at least one regenerable desiccant in non active form by activation into an active state and producing thereof a drying device as claimed in claims 55 or 71, converting said drying device as claimed in claim 55 or 71 by activation into an active state; removing a release liner from said activated drying device and placing said activated drying device into said closed gas space; and closing said activated drying device in an airtight manner in said closed gas space must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 68-70, and 84-86 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 68 and 84 refer to converting a desiccant polymeric matrix

Art Unit: 3749

comprising at least one regenerable desiccant in non active form by activation into an active state and producing thereof a drying device as claimed in claims 55 or 71, converting said drying device as claimed in claim 55 or 71 by activation into an active state; removing a release liner from said activated drying device and placing said activated drying device into said closed gas space; and closing said activated drying device in an airtight manner in said closed gas space which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The embodiments claimed with the activation steps are not contained in the disclosure as filed.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 56, 57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 56 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the connection of the water vapor permeable layer to the device.

Claim 60 recites the limitation "the water vapor permeable layer" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claim 55, and 59 are rejected under 35 U.S.C. 102(e) as being anticipated by Incorvia et al (6103141). Incorvia et al shows a desiccant polymeric matrix containing a regenerable desiccant agent therein and having pressure sensitive adhesive properties (14, fig. 1), a support layer disposed on one side of said matrix (12, fig. 1), a release liner disposed on the other side of said matrix (13, fig. 1), the regenerative desiccant is selected from the group consisting of CASO<sub>4</sub>, CASO<sub>4</sub>·1/2H<sub>2</sub>O, CaCl<sub>2</sub>, Al<sub>2</sub>O<sub>3</sub>, Cao, Na<sub>2</sub>SO<sub>4</sub>, k<sub>2</sub>CO<sub>3</sub>, Cuso<sub>4</sub>, Mg(clo<sub>4</sub>)<sub>2</sub>, MgSO<sub>4</sub>, silica gel and polyvinylpyrrolidone (col. 3, line 5).

Claims 71, and 75 are rejected under 35 U.S.C. 102(e) as being anticipated by Incorvia et al (6103141). Incorvia et al shows a desiccant polymeric matrix containing a regenerable desiccant therein (130, fig.); a support layer disposed on one or both sides of said matrix (100, fig. ), a pressure sensitive adhesive layer (110, fig.), a release liner covering said pressure sensitive adhesive layer (120, fig.), the regenerative desiccant is selected from the group consisting of CASO<sub>4</sub>, CASO<sub>4</sub>·1/2H<sub>2</sub>O, CaCl<sub>2</sub>, Al<sub>2</sub>O<sub>3</sub>, Cao, Na<sub>2</sub>SO<sub>4</sub>, k<sub>2</sub>CO<sub>3</sub>, Cuso<sub>4</sub>, Mg(clo<sub>4</sub>)<sub>2</sub>, MgSO<sub>4</sub>, silica gel and polyvinylpyrrolidone (col. 4, line 38).

***Claim Rejections - 35 USC § 103***

Art Unit: 3749

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 61, 66 and 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Incorvia et al. Incorvia et al discloses a desiccant polymeric matrix containing a regenerable desiccant agent therein and having pressure sensitive adhesive properties (14, fig. 1), a support layer disposed on one side of said matrix (12, fig. 1), a release liner disposed on the other side of said matrix (13, fig. 1). Incorvia discloses applicant's invention substantially as claimed with the exception of the support layer comprises a material selected from the group consisting of polyethylene terephthalate, polyethylene, polypropylene, paper and nonwovens, the desiccant comprises solid particles having a size of from 1 to 200 mm, or 1 to 50 mm. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have a size of from 1 to 200 mm, or 1 to 50 mm because Applicant has not disclosed that size provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the size of Incorvia or the claimed size because both sizes perform the same function equally well. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have the support layer comprises a material selected from the group consisting of polyethylene terephthalate, polyethylene, polypropylene, paper and nonwovens because Applicant has not disclosed that the material provides an advantage, is used for a particular purpose, or solves a

Art Unit: 3749

stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the material of Incorvia or the claimed material because both sizes perform the same function equally well.

Claims 80, 82, and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Incorvia et al (6103141). Incorvia et al discloses a desiccant polymeric matrix containing a regenerable desiccant therein (130, fig.); a support layer disposed on one or both sides of said matrix (100, fig. ), a pressure sensitive adhesive layer (110, fig.), a release liner covering said pressure sensitive adhesive layer (120 ,fig.). Incorvia et al discloses applicant's invention substantially as claimed with the exception of the polymeric matrix further comprises one or more tackifiers selected form the group consisting of rosin esters, hydrogenated rosin esters and hydrocarbon resins, the desiccant comprises solid particles having a size of from 1 to 200 mm, or 1 to 50 mm. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have the polymeric matrix further comprises one or more tackifiers selected form the group consisting of rosin esters, hydrogenated rosin esters and hydrocarbon resins because Applicant has not disclosed that the type of tackifiers provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the tackifiers of Incorvia et al or the claimed tackifiers because both tackifiers perform the same function equally well. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have a size of from 1 to 200 mm, or 1 to 50 mm because Applicant has not disclosed that size provides an advantage, is used for a particular purpose, or solves a stated problem.

Art Unit: 3749

One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the size of Incorvia or the claimed size because both sizes perform the same function equally well.

***Allowable Subject Matter***

Claims 56, 57 and 60 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 58, 62-65, 72-74, 76-79, 81 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

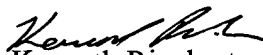
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth B Rinehart whose telephone number is 703-308-1722. The examiner can normally be reached on 7:30-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 703-308-1935. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.

KBR

  
Kenneth Rinehart  
Patent Examiner



Application/Control Number: 09/937,457

Page 8

Art Unit: 3749

AU 3749